STATE OF MICHIGAN

BEFORE THE JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

HON. DAVID MARTIN BRADFIELD
Judge, 36th District Court
Detroit, Michigan 48226
_____/

FORMAL COMPLAINT NO. 66

AMENDED COMPLAINT

Pursuant to MCR 9.208(A) and 9.214, the Judicial Tenure Commission of the State of Michigan ("Commission") files this Amended Complaint against the Honorable David Martin Bradfield ("Respondent"). Respondent is now and was at all material times a judge of the 36th District Court. This action is taken pursuant to the authority of the Commission under Article 6, Section 30, of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq*. The filing of this Amended Complaint has been authorized and directed by resolution of the Commission.

Respondent is hereby charged with acts of judicial misconduct as follows:

COUNT I
IMPROPER DEMEANOR, PREDISPOSITION AND ABUSE OF DISCRETION

(1) On February 5, 1998, Respondent presided over the preliminary examination in *People v Larry Black,* 36th District Court Case No. 97-69727.

(2) Before the preliminary examination, the prosecutor and defense counsel agreed to a one-month adjournment of the examination as fingerprint analyses relating to the matter were incomplete.

(3) The prosecutor and defense attorney agreed that the test results might lead to dismissal of the charges.

(4) When the case was called, the attorneys advised Respondent of the reasons for an adjournment.

(5) Judges in the 36th District Court are typically assigned to two-week rotations on the preliminary examination docket.

(6) Respondent was assigned to the preliminary examination docket from February 2, 1998 to February 14, 1998.

(7) His next rotation on the preliminary examination docket was April 13, 1998 to April 17, 1998.

(8) Respondent refused the request for a one-month adjournment as it would have resulted in the matter from being heard by another judge.

(9) Respondent erroneously concluded that the defense attorney's request to adjourn the preliminary examination was judge or forum shopping by delaying the examination to a time when a different judge would be assigned the case.

(10) Respondent ordered the attorneys to contact the laboratory and find out when the tests would be complete. Respondent stated: "I'll get a date that will be within the next two weeks, or else it will come off on another date. I am holding this case." (Preliminary examination transcript, February 5, 1998, page 4)

(11) Respondent's conclusion that the attorney was judge or "forum" shopping was again reflected when the attorneys obtained a date certain for the test results and Respondent rescheduled the examination during the period he was assigned to the preliminary examination docket. He stated: "This case is going to be held by me. It's not going to any other Judge." (Preliminary examination transcript, February 5, 1998, page 5)

(12) Both a magistrate and then-36th District Court Judge Greg Mathis set a personal bond at earlier proceedings, without objection from the prosecutor or police officer in charge. The defendant had been released to defense counsel after his arrest and voluntarily appeared for arraignment.

(13) When Respondent reviewed defendant's bond, the defense attorney was thwarted in his attempt to argue for continuation of bond. Respondent's reply was: "I could care less." (Preliminary examination transcript, February 5, 1998, page 7)

(14) A hearing on defendant's motion to disqualify Respondent in *Black* was held February 17, 1998.

(15) At that hearing, Respondent expressed personal bias and predisposition against individuals accused of involvement in the drug trade:

> This is not a personal bias against you or your client. It is a bias against individuals that have strong cases against them that are involved in the drug trade, to make sure that they are off of the streets of the City of Detroit and are pursuant to the statute of the State of Michigan not a danger to this community. (Hearing transcript, February 17, 1998, page 4)

(16) At the hearing, Respondent also expressed disdain for judges on courts that may review his decisions:

> You can talk to any other defense lawyer that you want to. It's been my history for the past 11 years and will continue to be my history, no matter what the circuit court does or no matter what the Recorder's Court does. They have their view and their philosophy of how the judicial system should work and I have mine. There are a lot of other judges that agree with me. That's all, motion denied. Let's move on. (Hearing transcript, February 17, 1998, page 5)

(17) Respondent conducted the arraignment in *People v Linda Fry*, 36th District Court Case No. 496711.

(18) The office of the defense attorney contacted the 36th District Court clerk's office before the arraignment date and was advised by staff that, as a written waiver of arraignment had been filed, the defendant did not have to appear, but defense counsel should appear.

(19) On July 16, 1998, the scheduled arraignment date, the defense attorney appeared without his client.

(20) Respondent's clerk advised defense counsel when he checked in that the defendant's presence was required and he should address his client's absence while Respondent was on the bench.

(21) When the case was called, defense counsel attempted to explain his client's absence.

(22) Respondent interrupted the attorney, refused to listen to the explanation, angrily threw the court file on his desk, and ordered a bench warrant to be issued for the defendant's arrest.

(23) When defense counsel asked to approach the bench and explain, Respondent directed the court reporter to go off the record and shouted: "Counsel, will you get out of my courtroom?" (Arraignment transcript, July 16, 1998, page 2)

(24) In his June 2, 2000, reply to a letter issued by the Commission under MCR 9.207(C), at page 6, Respondent asserted that his tirade was justified as the attorney was being "disrespectful" of Respondent's ruling, and had accused a member of Respondent's staff of saying something he or she never would say. Respondent stated the attorney "deserved the response he received."

(25) Respondent was assigned to *People v Paul W. Hall*, 36th District Court Case No. 0393021, for review of a longstanding unpaid traffic fine on March 3, 1999.

(26) An individual appeared before Respondent claiming the ticket was issued to his nephew who has the same name.

(27) The birth date relating to the ticket at issue was significantly different than that of the individual who appeared before Respondent and claimed the mistake.

(28) Respondent refused to consider evidence or hear arguments regarding the identity of the defendant and became irate, was rude, and yelled at Hall without provocation:

> A person would have to come back here three times, sir. I don't know of any idiot that would come back here three times using a false name. So it was you, sir.
>
> * * *
>
> Have a seat if you'd like to pay, sir. It's twelve years, twelve years. Do you think I'm going to buy that, hell, no. (Hearing transcript, March 3, 1999, page 4)

(29) On April 15, 1999, Respondent reviewed a plea previously taken under advisement in *People v Palmieri,* 36th District Court Case No. U794894.

(30) After the *Palmieri* matter was resolved, Respondent allowed the defense attorney to address the court on an unrelated issue.

(31) The attorney then criticized Respondent's tardiness in taking the bench.

(32) Respondent thereafter advised the attorney he was engaged in court business that morning; it was not the proper forum in which to address the issue; and he wished to continue with his docket.

(33) The attorney continued to press the issue, and Respondent asked him to leave the courtroom.

(34) During the exchange, the attorney noted he never encountered delays in the circuit court, while he typically encountered them in 36th District Court.

(35) Respondent ultimately became irate, and directed the attorney to get his "circuit court ass" or "ass" out of his court.

(36) Respondent further threatened the attorney with contempt when the attorney was attempting to order a transcript of the exchange.

(37) Respondent presided over a trial in *City of Detroit v Alfredrick Ruffin,* 36th District Court Case No. Z725962, on March 16 and 17, 1999.

(38) On March 16, without notice or just cause that the trial could last into the evening hours, Respondent continued the proceedings until 7:30 p.m.

(39) Respondent made no inquiry into possible inconvenience resulting from the prolonged proceeding.

(40) Defense counsel made at least two inquiries as to how long the proceedings would last that day. Respondent refused to estimate when the proceedings would end, and instead made abusive replies to counsel:

(a) The first inquiry by Pookrum was between 5:45 and 5:50 p.m.:

> POOKRUM: Your Honor, can we get some idea of how late we'll be going –
>
> THE COURT: We're going as long as it takes, counsel.
>
> POOKRUM: Well, I want to put some objection on the record. We have the Juror Number Four who apparently is sleeping –
>
> THE COURT: Well, I'm sorry, counsel.
>
> POOKRUM: Well –
>
> THE COURT: Your objection is noted but the court is not going to take it into consideration.
>
> POOKRUM: Also, Number Five indicated today that she had, had heart surgery and that she could not stay.
>
> THE COURT: No, she did not indicate that she couldn't stay, counsel. That was part of the questions that were asked. Have a seat, counsel, we're moving on. Bring the jury back in. Defense your case (referring to the fact that the prosecution had rested). (Trial transcript, March 16, 1999, page 195)

(b) The testimony of the next witness was completed at 6:20 p.m. Pookrum again inquired when the proceedings would end:

THE COURT (addressing an evidentiary argument):
Counsel, there's no further point, there's no further argument.

POOKRUM: I need to make a record, Your Honor.

THE COURT: Off the record.

We're going on with the case, counsel. I made my ruling. Let's move on.

POOKRUM: May I make a record?

THE COURT: No, sir.

POOKRUM: Well, may I say this –

THE COURT: No, sir.

POOKRUM: -- it's 6:19--

THE COURT: We're moving on with this case, counsel.

POOKRUM: This jury is in pain.

THE COURT: That's too bad, counsel.

POOKRUM: Two of them –

THE COURT: That is too bad. Let us move on. Call the jury back in, please.

(Jury back in courtroom at about 6:23 p.m.)

Any further witnesses? (Trial transcript, March 16, 1999, pages 218-219)

(41) Respondent failed to allow counsel, jurors and witnesses to attend to personal matters.

(42) Respondent rejected a request by defense counsel to advise his family of the prolonged proceedings.

(43) Respondent's continuation of the trial into the evening hours, without advance notice to the trial participants, and without permitting breaks to allow those individuals to attend to personal matters, created undue hardships.

(44) Respondent was assigned to conduct a preliminary examination in *People v John D. Gaines,* 36th District Court Case No. 00-55021, on January 14, 2000.

(45) The defense attorney in the matter was Walter Pookrum, who had initiated the grievance regarding the *Ruffin* case.

(46) After discovering that Respondent was assigned to the examination and that Chief Judge Marilyn Atkins was unavailable to consider reassignment to a different judge, Pookrum made an oral motion that Respondent recuse himself because of the pending grievance.

(47) Respondent denied the motion, and also refused Pookrum's request to refer the matter to Chief Judge Atkins for reconsideration:

> MR. POOKRUM: Then, I'd like an opportunity to appeal to the chief judge.

> THE COURT: No, you don't have that right, sir. The motion is denied. You move on. (Preliminary examination transcript, January 14, 2000, page 3)

(48) Respondent's statement is in direct contradiction to MCR 2.003(C)(3)(a), and was a retaliatory act for Pookrum's earlier grievance.

(49) Given Respondent's denial of both the motion and the request for referral, Pookrum and his client were prepared to waive the examination under protest.

(50) During a brief recess in the examination, Pookrum was able to consult with Judge Atkins, who instructed Respondent or his staff to forward the file to her for reassignment to another judge.

(51) When Pookrum returned to Respondent's court to retrieve his personal effects, Respondent acted as if he had reconsidered the request and was sending the file of his own initiative to Judge Atkins for reassignment.

COUNT II
DETERMINATION OF BOND IN DRUG CASES

(52) Respondent was assigned to hear preliminary examinations in criminal cases involving alleged drug offenses. At times Respondent was required to consider pretrial release in such cases.

(53) In the *Black* matter, identified in paragraph 1 above and involving an alleged drug offense, both a magistrate and then-36th District Court Judge Greg

Mathis set a personal bond without objection from the prosecutor or police officer in charge. The defendant had been released to defense counsel after his arrest and voluntarily appeared for arraignment.

(54) Respondent expressed a predisposition to increase the defendant's bond. Before making any inquiry or review of any factors affecting pretrial release under MCR 6.106(F), Respondent ordered that the defendant be detained pending the rescheduling of the examination. When asked the reason, Respondent stated: "Because I plan to increase his bond, that's why." (Preliminary examination transcript, February 5, 1998, page 4)

(55) Respondent ultimately set bond at $250,000, no surety.

(56) Respondent was assigned to conduct a preliminary examination on January 11, 2000 in *People v Terrell Moore,* 36th District Court Case No. 99-71133.

(57) The defendant was charged with violation of the controlled substances act, based on an allegation that he was found in possession of 44 "rocks" of cocaine, and commission of a felony while in possession of a firearm.

(58) Prior to the preliminary examination, a 36th District Court magistrate had released the defendant on a $10,000 personal bond.

(59) After the defendant waived the examination, Respondent cancelled the $10,000 personal bond, and set a cash bond of $44,000, cash, no surety, no early release and no tether.

(60) The bond in *Moore* was typical of Respondent's practice of setting bond at $1,000 per rock of cocaine allegedly found in the defendant's possession.

(61) Respondent was assigned to conduct a preliminary examination on July 5, 2000 in *People v Bruce Williams,* 36th District Court Case No. 00-63010.

(62) The defendant was charged with violation of the controlled substances act, based on an allegation that he was found in possession of 36 "rocks" of cocaine, and commission of a felony while in possession of a firearm.

(63) Prior to the preliminary examination, a 36th District Court magistrate had set bond at $5,000, 10%.

(64) After the defendant waived the examination, Respondent cancelled the $5,000 bond, and set a cash bond of $36,000, 10%.

(65) The bond in *Williams* was typical of Respondent's practice of setting bond at $1,000 per rock of cocaine allegedly found in the defendant's possession.

COUNT III
IMPROPER CONDUCT IN LANDLORD-TENANT CASES

(66) In landlord/tenant proceedings, including *Charles v Powell,* 36th District Court Case No. 99-305396, Respondent routinely conducts "off the record" conferences when parties report they are unable to resolve their differences.

(67) During those conferences Respondent frequently:

(a) Denies requests to participate by attorneys who represent non-corporate parties, even when attorneys who represent corporate landlords are allowed to participate (*Investors Management Service Corporation v Joseph Organ,* 36th District Court Case No. 99-336789, December 6, 1999);

(b) Excludes attorneys from the conferences because they cause problems that prevent settlement;

(c) Denies demands for jury trials, by stating variations of the following: "We are not going to do that in these kinds of cases; these are simple cases; you're not going to get that;"

(d) Refuses to make a record of demands for jury trials; and

(e) Fails to advise litigants of the right to an attorney and denies adjournments to *in pro per* parties who express a desire to retain counsel, in violation of MCR 4.201(F)(2) (*Charles v Powell*, *supra*).

(68) Respondent advises parties and attorneys that oral demands for a jury trial made at the first appearance in landlord/tenant cases are untimely, in violation of MCR 4.201(F)(3).

(69) During landlord/tenant proceedings, Respondent articulates indifference or hostility to examining and evaluating evidence:

(a) Respondent frequently makes a variations of the statement: "I don't want to see (or hear) that," regardless of the relevance of the evidence, and once stated: "I do not want to see that mess" in *Charles v Powell*, *supra*;

(b) Respondent rejects efforts by tenants or their attorneys to assert factual defenses by stating that he is not concerned with them;

(c) Respondent refuses to consider evidence challenging a plaintiff's ownership or standing to sue (*Charles v Powell, supra*; *Ellison v Embry,* 36th District Court Case No. 99-324322, August 18, 1999; and *Daniels v Barisley,* 36th District Court Case No. 97-332720, March 9, 1998);

(d) Respondent typically refuses to consider evidence concerning the disrepair of premises, order repairs in judgments, or abate rent due to the condition of the premises, part of a consent judgment; and

(e) Respondent refuses to consider retaliation as a defense, merely by stating "it does not matter in this case," regardless of the facts.

(70) Respondent phrases comments in a manner that leads litigants to misunderstand their rights:

(a) Respondent responds to demands for jury trials with a statement that tenants must request a jury trial and pay a jury fee pursuant to the summons, implying that the oral demand, or payment of a jury fee to the court clerk directly after the demand, would not preserve the right to a jury trial; and

(b) When a party expresses a desire to be represented by an attorney, Respondent replies that the court will not "appoint counsel," implying parties do not have the right to be represented in a landlord/tenant action.

(71) Respondent routinely rushes through his landlord/tenant docket disregarding the rights of the parties or their claims and defenses, and maintaining an intimidating attitude.

(72) Respondent routinely is abusive and threatening to parties in landlord/tenant cases (Landlord/tenant docket of April 15, 1999 and *Charles v Powell, supra,* where Respondent advised the tenant to "shut up" or he would find in favor of the landlord).

(73) Respondent denied a motion to set aside a judgment on the same date he signed a writ of restitution in *Charles v. Powell,* and failed to notify the tenant or the tenant's attorney, contrary to MCR 4.201 and MCLA 600.5741.

COUNT IV
LACK OF CANDOR TO JUDICIAL TENURE COMMISSION

(74) At the Commission's request, Respondent made written comments to the Commission on April 25, 2001 pursuant to MCR 9.207(C). When addressing the allegations concerning his refusal to refer the disqualification to Chief Judge Atkins in the *Gaines* matter on January 14, 2000, Respondent stated at page 3:

> The case was recessed at 11:23 a.m. for approximately twenty-four minutes. During that time, Judge Bradfield reviewed the law and discovered that he had erred in not allowing Mr. Pookrum to appeal the denial of the motion to the chief judge under MCR 2.003(C)(3)(a).

(75) In the *Black* matter, identified above in paragraph 1, Respondent acknowledged on the record on February 17, 1998 that a party has a right to have a denial of a disqualification motion reviewed by the chief judge, as reflected in the following exchange:

> MR. FISHMAN: Pursuant to the Court Rule [sic] I'm allowed to a hearing before the Chief Judge, and that is what I'm requesting.
>
> THE COURT: Fine, take it up to the Chief Judge and I'll see you in a few minutes. (Hearing transcript, February 17, 1998, page 5)

(76) Respondent's assertion in *Gaines* that he had to "review the law" to "discover" the right granted by the court rule is a false and misleading statement and reflects a lack of candor to the Commission, as Respondent knew the applicable law in February 1998.

(77) At the Commission's request, Respondent made written comments to the Commission on June 2, 2000 pursuant to MCR 9.207(C). When addressing the allegations concerning the date of the execution of an order denying a motion to set aside a judgment in *Charles v Powell, supra,* Respondent asserted at page 9 of the correspondence that the order was executed on March 12, 1999.

(78) All available evidence establishes that the order was executed on March 25, 1999, the same day a writ of restitution was executed by Respondent, in violation of a required 10-day waiting period.

(79) Respondent's assertion in *Charles v Powell* that he executed the order on March 12, 1999 is a false and misleading statement and reflects a lack of candor to the Commission, as Respondent executed the order on March 25, 1999.

(80) Respondent's conduct, as described above, constitutes:

(a) Misconduct in office, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30 and MCR 9.205;

(b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205;

(c) Failure to establish, maintain, enforce and personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;

(d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;

(e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A;

(f) Failure to cooperate with the Commission during a preliminary investigation, contrary to MCR 9.213(B);

(g) Failure to respect and observe the law and to conduct himself at all times in a manner which would enhance the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;

(h) Failure to be faithful to the law and to maintain professional competence in it, contrary to the Code of Judicial Conduct, Canon 2A(1);

(i) Excessive personalization of matters by failing to be patient, dignified, and courteous to litigants, lawyers and others with whom he deals in an official capacity, contrary to the Code of Judicial Conduct, Canon 3A(3);

(j) Demonstrating a severe attitude toward witnesses; tending to prevent proper presentation of the cause and ascertainment of the truth; failure to avoid a controversial manner and tone in addressing counsel, litigants and witnesses; failing to avoid interruptions of counsel in their arguments; and making premature judgment, in violation of the Code of Judicial Conduct, Canon 3A(8);

(k) Failure to adhere to the usual and accepted methods of doing justice, contrary to the Code of Judicial Conduct, Canon 3A(9);

(l) Conduct which is prejudicial to the proper administration of justice, in violation of MCR 9.104(1);

(m) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and

(n) Conduct which is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all facts and circumstances pertaining to Respondent's alleged misconduct. Any willful concealment, misrepresentation, or failure to file such an answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION
STATE OF MICHIGAN

By:_____
Paul J. Fischer (P35454)
Examiner

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Casimir J. Swastek (P42767)
Associate Examiner
211 West Fort Street, Suite 1410
Detroit, Michigan 48226-3200

Date: July 3, 2001